

**Submission
No 16**

**INQUIRY INTO LANDOWNER PROTECTION FROM
UNAUTHORISED FILMING OR SURVEILLANCE**

Organisation: National Farmers' Federation

Date Received: 23 July 2018



The Hon Robert Borsak MLC
Chair
Select Committee on Landowner Protection
from Unauthorised Filming or Surveillance
Legislative Council
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000
By email: Landowner.Surveillance@parliament.nsw.gov.au

Dear Chair

Re: Inquiry into landowner protection from unauthorised filming or surveillance

The National Farmers' Federation (NFF) is the peak national body representing farmers and, more broadly, agriculture across Australia. It is one of Australia's foremost and respected advocacy organisations.

Since its inception in 1979, the NFF has earned a reputation as a leader in the identification, development and achievement of policy outcomes that champion issues affecting farmers and are dedicated to the advancement of agriculture.

As you will be aware, the actions of so-called “animal activists” unlawfully entering properties for the purpose of undertaking unauthorised filming is a very serious issue of concern for farmers, as are activities where footage is covertly obtained by employees or by technology such as drones.

The NFF supports the submissions of its members, NSW Farmers’ and Australian Pork Limited. In particular we support the notion put forward by NSW Farmers’ that the following principles must be addressed by the Inquiry:

-) ensuring that the legal frameworks – at both a State and Commonwealth levels – are fit for purpose and have the capacity to retain currency in an evolving technologically driven environment;
-) that the rights and responsibilities of both those under surveillance and those initiating the surveillance have equal rights to protection and prosecution (where indicated); and
-) that primary producers are well informed of their rights and responsibilities and adequately supported with regard to responding to trespass and associated illegal surveillance.

Prima facie it does seem that the current regulatory environment across all jurisdictions is insufficient from both the perspectives of enforcement and deterrence. The NFF considers this inquiry to be an opportunity for the NSW Government to be a national leader.

The NFF and its members will always support Australian farmers' right to carry out their business free from trespass and unapproved intrusion, in the same manner any business or individual are entitled too.

Many of these activities are conducted under the misguided notion that they are uncovering poor animal welfare practices. They also take place on farms that are also family homes and this breach of privacy is particularly disturbing.

Australian farmers are champions for their industry and are extremely proud of what they do. Most farmers would happily explain their processes, on farm to anybody who would like to learn and understand more about what we do. As an industry there is a significant movement for better engagement and education with those from non-agricultural backgrounds about our work. As an industry, we advocate for transparency across the whole supply chain.

Unfortunately the footage that is obtained during these incursions is not is not a fair representation of our broader industry. This is to the detriment of not only our farm sector, but viewers, who will possibly be influenced by ill-balanced, ill-truths and misinformation.

A number of these instances have warranted the Australian Farmers Fighting Fund (AFFF) intervening. One such matter involves the illegal trespass by animal activist on to a NSW pig farm. The activists took video recordings which were subsequently used in their promotional and campaign activities, frequently taken out of context. The local court prosecution of the activists under the NSW surveillance devices legislation failed due to technical mistakes on the part of the NSW DPP. The AFFF funded Australia Pork Limited (APL) seeking advice with respect to potential civil causes of action which may be available. In addition, key stakeholders met with the NSW Minister for Primary Industries Niall Blair to discuss the issue.

In addition, there are a number of ancillary practical considerations that are directly influenced by inadequate legal redress for unauthorised filming and surveillance, and the accompanying trespass that occurs if footage is obtained by entering the property. These considerations are:

-) Unauthorised entry on farms can compromise biosecurity and supply chain integrity. These "activists" do not take necessary (and legally mandated) steps before entering farms and interacting with animals, potentially introducing pests and disease. A disease outbreak can have far reaching consequences, not just for individual farms, but for farming regions and across commodities.
-) In addition to concerns about biosecurity, the activities of these "activist" have impacted farms' productivity, and resulted in damage to property and theft of livestock. Furthermore, the act of recording and publishing/broadcasting operations can divulge sensitive and confidential aspects of farm operations.

- The misleading publications impact on the reputation of individual farms and brand value. The Australian agricultural brand has an international reputation for quality and cleanliness, in large part because of the robustness of our farming systems and the regulation which promotes them. We are concerned that the defamatory activities of the people, for example publishing misleading and selectively edited videos on the internet, may damage not just the operations of the individual farms which are targeted, but the value of that brand nationally and even internationally.
- Ironically the activities of these people, who are frequently not familiar with the realities of farm practices, may actually harm the animal and the welfare/rights which they think they are promoting. In addition to introducing disease and pests discussed above, quite unsurprisingly animals experience distress when unfamiliar people invade their habitats at abnormal hours.
- These activities are fundamentally illegal (unlike those of most of the farms which they invade) and a gross violation of privacy and personal security. It is understandably unsettling, even frightening, for farmers and their families to be woken in the middle of the night (or the next morning) to find strange people sneaking about on their land and handling their property.

Thank you for the opportunity to provide a submission. Should you wish to discuss further please do not hesitate to contact Mr Mark Harvey-Sutton, General Manager for Rural Affairs at or on 02 6269 5666.

Yours sincerely

TONY MAHAR
CEO